

MINUTES
WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
February 25, 2013 at 6:00 P.M.

PLEDGE OF ALLEGIANCE: A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Jeff Valiant, President; Judy Writsel, Jeff Willis, Tina Baxter, Don Mottley.

Also present were Morrie Doll, Attorney; Sherri Rector, Executive Director; Sheila Lacer, and Molly MacGregor, Staff.

MEMBERS ABSENT: Mike Winge and Terry Dayvolt.

MINUTES: Upon a motion made by Don Motley and seconded by Judy Writsel, the minutes of the last regular meeting held January, 28, 2013 were approved as circulated.

VARIANCES:

BZA-V-13-04

APPLICANT: In Touch, Inc. by Krista Lockyear, Attorney

OWNER: Fine Realty, LLC by Marc Fine, Manager

PREMISES: Property located on the N side of Ruffian Lane approximately 0 feet N of the intersection formed by Ruffian Lane and Citation Dr. Ohio Twp. Lot No. 81A & 81B in Triple Crown Estates Subdivision. *8622 Ruffian Lane.*

NATURE OF CASE: Applicant requests a Variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for the location of an on-premise sign within a Legal Drainage Easement in “C-1” Neighborhood Commercial Zoning District. *Advertised in the Boonville Standard February 14, 2013.*

Krista Lockyear was present.

Chairman Valiant called for a staff report.

Mrs. Rector stated they have all except for one from Susan Lis, whom we received a waiver from. Mrs. Rector added the notices weren’t sent out in the 21 day period; however they have received all of the return notices except the one from Susan. Mrs. Rector said the house is vacant and Krista did detective work and chased her down today and got the waiver. Mrs. Rector stated the applicant is requesting a Variance to allow an Improvement Location Permit to be issued for the location of an on-premise sign

within a Legal Drain Easement in a C-1 Neighborhood zoning district. Mrs. Rector said the existing zoning and land use is "C-1" Neighborhood commercial with a Premier Tanning Salon and the new AT&T Retail Store within the same building. Mrs. Rector said surrounding zoning and land uses are the property to the east and south is zoned "C-4" General Commercial with commercial buildings, the property to the South is zoned "R-3" Resort with residences, and the property to the West is zoned "C-3" Highway Commercial with commercial buildings. Mrs. Rector stated there is no flood plain. Mrs. Rector added the lot has 2 accesses off of Ruffian Lane. Mrs. Rector said the applicant state that they are "a new AT&T retail tenant and requires freestanding advertising sign. The real estate is encumbered by legal drainage easement from the property line (State Road 66) south as shown on the attached site plan, leaving no area for signage along the frontage which would be outside said easement. Applicant has obtained approval of drainage board for this location."

Mrs. Rector added there was a Variance granted in 1992 for a sign to be located in the building line. Mrs. Rector said this is a new sign and it will also be located within the building line but the Plan Commission determined that signs were not intended to be exempted from being located within the building line; they just needed to meet the minimum 5' setback, which the sign does. Mrs. Rector said if you go down SR 66, all the signs out there are near the highway and are located within this easement, but our Ordinance says it requires a Variance. Mrs. Rector added the application is in order.

Chairman Valiant asked the applicant if they had anything to add.

Krista Lockyear stated that she agreed with everything that Mrs. Rector stated and had nothing to add.

Chairman Valiant asked if the Board had any questions.

Judy Writsel asked if this was an additional sign.

Mrs. Rector said yes it was, it is not a message board it is just a free standing sign.

Ascertaining there were no other comments from the Board and being no remonstrators present the Chairman called for a motion.

I, Don Motley, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is the drainage easement.

4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file are subject to the following additional conditions:
 - a) Subject to an Improvement Location being obtained.
 - b) Subject to a Building Permit being obtained.
 - c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
 - d) Subject to all utility easement and facilities in place.
 - e) Subject to approval from Drainage Board.

Motion was seconded by Tina Baxter and unanimously carried.

ATTORNEY BUSINESS: None

EXECUTIVE DIRECTOR BUSINESS: None

Being no other business the meeting adjourned at 6:11 p.m. Motion made by Don Motley, seconded by Jeff Willis and unanimously carried.

Jeff Valiant, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of said Board at their monthly meeting held February 25, 2013.

Sherri Rector, Executive Director